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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 LAOS CHUMAN, ) Case No. CV 08-6976-PA (DTB)  
12 Petitioner, )  
13 vs. ) ORDER TO SHOW CAUSE  
14 JOHN MARSHALL, Warden, )  
15 Respondent. )  
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17 In light of the Supreme Court's just-issued decision in Swarthout v. Cooke, ---  
18 S.Ct. ----, 2011 WL 197627 (U.S. Jan. 24, 2011) (per curiam), petitioner is ordered  
19 to show cause in writing, on or before **March 1, 2011**, why the Court should not  
20 recommend the denial of the Petition and the dismissal of this action with prejudice.

21 In the Supreme Court decision, in reversing Cooke v. Solis, 606 F.3d 1206,  
22 1213 (9th Cir. 2010), and rejecting the Ninth Circuit's position on the standard of  
23 review applicable to California parole denials, the Supreme Court held that, even if  
24 a California prisoner has a state-created liberty interest in parole, the only federal due  
25 process to which a California prisoner challenging the denial of parole is entitled is  
26 the minimal procedural due process protections set forth in Greenholtz v. Inmates of  
27 Nebraska Penal, 442 U.S. 1, 16, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979) (i.e., an  
28 opportunity to be heard, and a statement of reasons for the denial). See 2011 WL

1 197627 at 2. The Supreme Court observed that, where the records reflect that the  
2 prisoners were allowed to speak at the hearings and to contest the evidence, were  
3 afforded access to their records in advance, and were notified as to the reasons why  
4 parole was denied, “[t]hat should have been the beginning and the end of the federal  
5 habeas courts’ inquiry.” See id. at 3. Under the Supreme Court’s decision in Cooke,  
6 “it is no federal concern whether California’s ‘some evidence’ rule of judicial review  
7 (a procedure beyond what the Constitution demands) was correctly applied.” See id.  
8 at 3.

9 Here, petitioner is not contending that he was denied the minimal procedural  
10 due process protections set forth in Greenholtz. Moreover, here as in Cooke, the  
11 record reflects that petitioner was allowed to speak at the parole consideration hearing  
12 and to contest the evidence, was afforded access to his records in advance, and was  
13 notified as to the reasons why parole was denied. While petitioner does contend that  
14 the California courts incorrectly applied California’s “some evidence” rule, that is not  
15 a federal concern under the Supreme Court’s decision in Cooke.

16 In light of Cooke, it simply does not appear that the Court would have any  
17 basis for finding or concluding that the California courts’ rejection of the substantive  
18 due process claim(s) being alleged in the Petition was contrary to or involved an  
19 unreasonable application of clearly established Supreme Court law.

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21 DATED: February 3, 2011



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24 DAVID T. BRISTOW  
UNITED STATES MAGISTRATE JUDGE